

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JEREMY ZIELINSKI,
Plaintiff,

v.

ANTHONY ANNUCCI,
Defendant.

VERIFIED COMPLAINT
42 U.S.C. §§ 2000cc et seq.

Case No. 22 cv 924

Jury Trial Demanded

Plaintiff JEREMY ZIELINSKI, pro se, alleges:

INTRODUCTION

1. This is a civil rights action brought pursuant to the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc et seq. ("RLUIPA"). It challenges an arbitrary decree by Anthony Annucci, the "Acting Commissioner" of the New York State Department of Corrections and Community Supervision ("DOCCS"), banning Plaintiff from receiving fresh fruits and vegetables and other healthy food necessary for his religious diet.

JURISDICTION AND VENUE

2. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. Venue is proper in this district pursuant to 28 U.S.C. § 1391 as a substantial part of the events giving rise to the claims occurred at Attica Correctional Facility ("Attica CF") in this district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

3. Plaintiff has fully exhausted "available" administrative remedies with respect to the claims herein by filing and fully appealing a DOCCS grievance.

PARTIES

4. Plaintiff JEREMY ZIELINSKI is incarcerated in DOCCS custody.

5. Defendant ANTHONY ANNUCCI is the "Acting Commissioner" of DOCCS and is sued in his official capacity.

6. At all times relevant the defendant was acting under color of state law, custom and/or usage.

FACTS

7. Plaintiff is an Atheist, which means he holds a religious devotion to reason and asking and answering by rational inquiry all "ultimate questions" on which positions are taken by conventional religions.

8. A central and mandatory component of Plaintiff's religious beliefs is daily consumption of fresh fruits and vegetables and other healthy foods to maintain physical and mental health for as long as possible. This is required for multiple reasons:

A. Plaintiff's beliefs do not recognize an afterlife, so it is essential to maintain physical life as long as possible.

B. Proper contemplation of ultimate questions by reason and rational inquiry depends on a healthy mind and body, so daily consumption of food that preserves them is essential.

C. Consuming fresh fruits and vegetables and other healthy foods demonstrates and facilitates deep contemplation, appreciation and celebration of the fragility and interconnectedness of all life.

9. A second central and mandatory component of Plaintiff's religious beliefs is to acquire all food and other items from morally acceptable sources, by which is meant from sources that do not cause or exploit unnecessary harm and suffering to other living things or the environment which sustains all forms of

life.

10. Although DOCCS does not offer a diet compatible with Plaintiff's religious beliefs, for most of his incarceration this has not been a problem as he could receive fresh fruits and vegetables and other healthy food by mail in what DOCCS calls "packages" from family and friends familiar with Plaintiff's beliefs who refrain from acquiring them from immoral sources.

11. However, on April 25, 2022 defendant Annucci arbitrarily decreed that effective May 9, 2022 family and friends would be permanently banned from mailing any food items to incarcerated people, and that although they would be able to mail two "non-food" packages per year, all food items including fresh fruits and vegetables and other healthy food would have to be purchased from "vendors," a term left undefined except in a circular, negative sense: a "vendor" is any "vendor" not on a "disapproved vendors" list maintained by DOCCS by some unknowable standard. The asserted rationale for the decree is to prevent abuse of packages to smuggle drugs and weapons into facilities. A copy of the decree is attached as Exhibit P0001.

12. Although the decree did not change what food items were "officially" permitted or explicitly prohibit fresh fruits and vegetables and other healthy food, it made it impossible for Plaintiff to receive them, as DOCCS has interpreted the term "vendor" (without any discernible basis in any published rule or regulation) to permit receipt of food packages only from prison-focused commercial enterprises that exploit mass incarceration and its egregious harms to people and the environment for profit, which in Plaintiff's religious beliefs are immoral and thus cannot be patronized, and which in any event do not sell fresh or healthy foods.

13. Plaintiff promptly filed a grievance seeking a religious accommodation from DOCCS that would permit him to continue to receive fresh fruits and

vegetables and other healthy food items in packages from family and friends as he had for years without issue prior to the April 25 decree.

14. DOCCS initially ignored the grievance, but when Plaintiff appealed the lack of response Attica CF sent the facility chaplain, a Catholic nun, to interview Plaintiff about his request. Plaintiff explained his beliefs and the issues and the chaplain relayed them back to the grievance staff but made no recommendation of whether to accommodate them. Shortly thereafter the grievance was denied for the asserted reason that Plaintiff was not prohibited from receiving fresh fruits and vegetables and other healthy food when purchased from "vendors," in complete disregard of Plaintiff's actual complaint.

15. Plaintiff timely appealed the grievance but to date DOCCS has refused to decide it, and its 30-day time limit to do so under DOCCS grievance regulations (7 NYCRR Part 701) has long expired.

16. A copy of the grievance and related communications are attached as Exhibit P0002.

17. Since the April 25, 2022 decree Plaintiff has been unable to receive fresh fruits and vegetables and other healthy food essential to his religious diet and practices which depend on it.

18. Accommodating Plaintiff's religious beliefs by granting his request for a religious exemption from the April 25 decree would impose absolutely no costs or burdens on DOCCS and would not threaten any compelling governmental interest it might have:

A. Plaintiff has never used or tried to use food packages from family and friends to smuggle drugs or weapons or any other impermissible purpose, and he has no history of involvement with drugs or weapons, so he is not within any class of people the April 25 decree purports to be targeted at; fresh fruits and vegetables and other healthy foods are

inherently unlikely means of concealing contraband; and in any event DOCCS can and does physically inspect all packages.

B. Plaintiff offered (and his family and friends are willing) to provide government identification to DOCCS of who would be sending him food packages.

C. There is no practical difference for DOCCS "package room" staff between a package received from Plaintiff's family members or friends and a package from a "vendor" -- the packages and items they contain are identical, the only difference being the return address on the box.

D. Plaintiff has not sought to be able to receive packages more frequently or in greater volume than anyone else, but simply to be able to receive them from a source that is compatible with and can supply the food items needed for his religious diet, which he received for years without issue prior to the decree.

E. Accommodating Plaintiff's request could be accomplished in its entirety by simply making a note in Plaintiff's package room file that he can receive food packages from specified family and friends.

19. Accordingly, banning Plaintiff from receiving fresh fruits and vegetables and other healthy food from family and friends as he did without issue prior to the April 25 decree, and refusing to grant Plaintiff a religious exemption from that decree, is not the least restrictive means of furthering any compelling governmental interest with respect to Plaintiff in particular.

20. No prior action has been brought raising this claim.

21. Plaintiff has no full, complete and adequate remedy at law.

CLAIMS FOR RELIEF

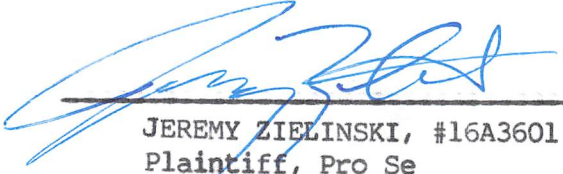
Claim 1: Violation of RLUIPA

22. The defendant's refusal to grant Plaintiff's religious accommodation request violates 42 U.S.C. § 2000cc-1.

PRAYER FOR RELIEF

WHEREFORE Plaintiff demands judgment against the defendant preliminarily and permanently enjoining him to grant Plaintiff's religious accommodation request, an award of costs and expenses incurred in litigating this action, and such other and further relief as is just and proper.

Date: November 28, 2022.

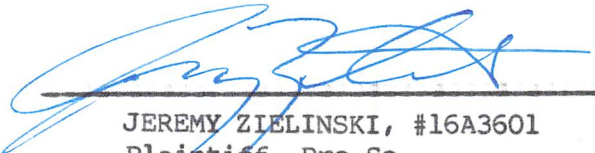


JEREMY ZIELINSKI, #16A3601
Plaintiff, Pro Se
Great Meadow Corr. Fac.
P.O. Box 51
Comstock, NY 12821-0051

VERIFICATION

I, Jeremy Zielinski, declare under penalty of perjury that I am the plaintiff herein, that I have read the foregoing verified complaint and know the contents thereof, and that the same is true and correct to my own knowledge, except as to matters alleged on information and belief and as to such matters I believe them to be true.

Executed on November 28, 2022
at Comstock, New York.



JEREMY ZIELINSKI, #16A3601
Plaintiff, Pro Se
Great Meadow Corr. Fac.
P.O. Box 51
Comstock, NY 12821-0051



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

TO: Incarcerated Individual Population

FROM: Anthony J. Annucci, Acting Commissioner

SUBJECT: Incarcerated Individual Packages

DATE: April 25, 2022

As a result of an increase in violence and overdoses due to the introduction of contraband through the package room, specifically, illicit drugs and weapons, the Department is in the process of revising its policy concerning packages and articles that are received through facility package rooms. Upon complete implementation, packages and articles will only be allowed to be received directly from vendors via U.S. Postal Service, FedEx, UPS, etc. Packages will no longer be allowed to be brought to the facility during visits or mailed directly to the facility from family or friends. While crafting the updated policy, we considered the concerns raised by the families of incarcerated individuals and advocate organizations regarding the availability and price of products under the previously discontinued pilot Secure Vendor Program. This change is expected to make the system safer and aid in reducing overdoses, violence and overall rehabilitation of the population.

Department Directive #4911, "Packages & Articles Sent or Brought to Facilities" is being renamed to "Packages & Articles Sent to Facilities" with the following additional modifications:

- Only packages received via mail directly from a vendor will be permitted, except:
 - Family and/or Friends will be permitted to send two (2) non-food packages per year, via mail
- The number of food packages allowed will be increased from two (2) to three (3) per month and the total weight increased from 35 to 40 lbs.
- There will be no limit on non-food packages received from vendors, whether ordered by the incarcerated individual or family/friends
- The "Receipt Value Record" will be increased from \$20 to \$30
- Similar to what we did in our commissaries, all cans will be eliminated
- The maximum value of an allowable item of clothing will be increased from \$80 to \$90
- The mini-calculator max value will be increased from \$30 to \$50
- The typewriter max value will be increased from \$350 to \$370

Incarcerated individuals who are not serving a Loss of Packages sanction will continue to order packages and articles utilizing disbursement forms and ordering from vendor catalogs. An incarcerated individual's family members and friends will also be able to order packages and articles from vendors to be delivered via U.S. Postal Service, FedEx, UPS, etc. The only vendors that cannot be ordered from are those that are on the disapproved vendor list. This list will be published on the Departmental web page. Directive #4913,

"Incarcerated Individual Property", sets forth incarcerated individual property limits; these limits remain unchanged.

The new method of how packages and articles are received through facility package rooms will be piloted in a HUB identified by Central Office, beginning on May 9, 2022. The pilot program in the initial HUB will continue for at least one month, to provide the Department an opportunity to adequately address any unforeseen issues that may arise. Following the initial rollout, two (2) additional Hubs' will be added every two weeks, until the program is fully implemented. Based on the success of the program, the implementation schedule may be accelerated. Upon, the program becoming fully implemented, these changes will become permanent.

For facilities that have a Family Reunion Program (FRP), the FRP will continue to operate in accordance with Directive #4500 "Family Reunion Program" and the Facility's local policy at this time.

In addition, while fresh vegetables will not be eliminated if shipped directly from a vendor, we recognize providing access to fresh fruits and vegetables is important. While most facilities offer this via the commissary, DOCCS will direct all facilities with a commissary to offer fresh fruits and vegetables, with the types of produce being identified through discussions with the Incarcerated Liaison Committee. In addition, DOCCS will explore options to standardize commissary offerings across the state, resulting in an increase in items available to the population

The goals of the Department's Packages & Articles Sent to Facilities program are to maximize the availability of food and articles for incarcerated individuals from vendors that offer a variety of items at competitive pricing for incarcerated individuals, their families and their friends, while maintaining security, safety, and aiding in achieving the Department's overall mission.

INCARCERATED GRIEVANCE COMPLAINT

Grievant: J. ZIELINSKI 16-A-3601 D-37-2 May 23, 2022

Problem: Frequent consumption of fruits and vegetables, and acquisition of all food items from morally acceptable sources, are central mandatory components of my religious beliefs. Anthony Annucci's arbitrary attempt on April 25, 2022 to permanently ban food packages from family and friends and totally ban canned food from all sources substantially burdens my religious beliefs because (a) it makes acquiring fruits and vegetables and many other food items (both fresh and canned) difficult to impossible, and (b) forces me to choose between patronizing morally corrupt enterprises or going without many religiously necessary foods entirely, interfering with my right to consume a religiously acceptable diet. Completely banning family and friends from sending food, and completely banning all canned items, are not the least restrictive means of accomplishing any compelling governmental interest; I have never been accused or even suspected of attempting to receive any drugs, weapons or other dangerous contraband in a package of food, and any compelling interest that DOCCS might have regarding packages can be effected by a less restrictive means: following the same security practices that existed prior to Annucci's arbitrary action of April 25, 2022. Subjecting me to Annucci's ban on food needed for my religious diet violates my rights under the Religious Land Use and Institutionalized Persons Act, 42 USC §§ 2000cc et seq., which requires individualized exemptions from generally applicable prison policies to accommodate religious activity.

Relief Requested: I request a religious accommodation of my religious dietary requirements. An individual exemption from package restrictions so that I may continue to receive fresh fruits and vegetables and other food items, including canned food, subject to inspection, from specifically designated friends and family.



J. ZIELINSKI

cc: file



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

16A3601

D 37-3

TO: Zielinski, J

FROM: IGRC

DATE: IGRC

RE: MAY 25 2022
GRIEVANCE SUBMITTAL

Today, this office has received your complaint dated _____.

☐ It has been logged as Grievance # 1065-22, Code 31 and titled, PK Policy Violations Relapsing. You will be scheduled for an IGRC hearing once the investigation has been completed.

☐ It has been consolidated as a "Like" grievance with Grievance # _____.

☐ It has been logged as Grievance # _____, a Code 49 and titled, _____. It has been passed through to the Superintendent and you will receive a response directly from the Superintendent once the investigation has been completed.

☐ It is being returned to you as the incident you referred to occurred on _____, which is beyond the 21-day timeline for filing a grievance, per Directive #4040 §701.5 (a)(1). No further action will be taken regarding this grievance.

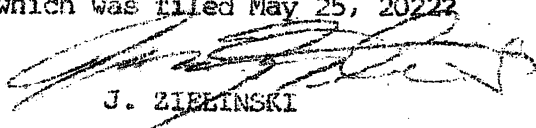
Copies of grievances or supporting documentation should be requested via the FOIL Officer in accordance with Directive #2010.

cc: File
Attachment

P0002:2

To: IGP Clerk, Attica CP
Fr: J. ZIELINSKI 16-A-3601 D-41-3
Re: Grievance A-1065-22
Date: July 5, 2022

What is the status of the above grievance, which was filed May 25, 2022?



J. ZIELINSKI

cc: file

To: Facility Chaplain, Attica CF
Fr: J. ZIELINSKI 16-A-3601 D-41-3
Re: Religious accommodation request
Date: July 5, 2022

Dear Sir or Madam:

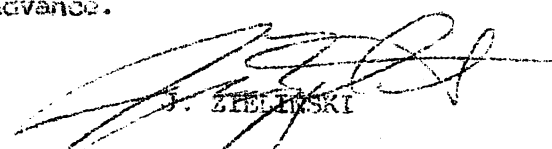
I am writing to you to request a religious accommodation pursuant to DOCCS Directive #4202, the Religious Land Use and Institutionalized Persons Act (42 U.S.C. §§ 2000cc et seq.), and NY Correction Law § 610. If you are not the correct person for this request, please forward it to the correct person or inform me who that person is.

Frequent consumption of fruits and vegetables, and acquisition of all food items from morally acceptable sources, are central mandatory components of my religious beliefs. On or about May 9, 2022 this facility began trying to ban all family and friends from sending food items to incarcerated people and instead requiring them to be purchased from "vendors," and totally ban canned food from any source. This substantially burdens my religious beliefs because (a) it makes acquiring fruits and vegetables and many other food items (both fresh and canned) difficult to impossible, and (b) forces me to choose between patronizing morally corrupt enterprises or going without many religiously necessary foods entirely, interfering with my right to consume a religiously acceptable diet.

Completely banning family and friends from sending food, and completely banning all canned items, are not the least restrictive means of accomplishing any compelling governmental interest. I have never been accused or even suspected of attempting to receive any drugs, weapons or other dangerous contraband in a package of food, and any compelling governmental interest that DOCCS might have regarding packages can be effected by a less restrictive means: Following the same security practices that existed prior to the arbitrary May 9, 2022 family food packages and canned food ban. Subjecting me to this ban violates my rights under the RLUIPA and Correction Law § 610, both of which require individualized exemptions from generally applicable prison policies to accommodate religious activities, including dietary practices.

I therefore request a religious accommodation of my religious dietary requirements, in the form of an individualized exemption from package source restrictions and the ban on all canned food items, so that I may continue to receive fresh fruits and vegetables and other food items, including canned food, subject to inspection, from specifically designated friends and family. This can be implemented at de minimis cost and burden with a simple memorandum directed to Package Room staff that I may continue to receive food packages from family and friends, including canned food items, as I did many times prior to May 9, 2022. If necessary the individuals from whom I will receive packages can provide a copy of their government ID to the Department.

If you have any questions please direct them to me in writing or place me on a callout to discuss. Thank you in advance.



J. ZIELINSKI

cc: file

P0002:4

To: IGP Clerk, Attica CF

Fr: J. ZIELINSKI 16A3601 D-41-3

Re: A-1065-22 (Package Policy Violates Religion)

Date: July 15, 2022

Pursuant to 7 NYCRR § 701.6(g)(2) I hereby appeal the above grievance due to failure of timely response.



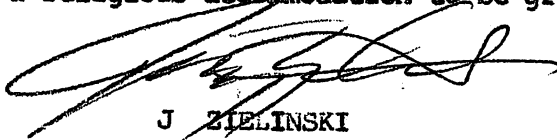
cc: file

INCARCERATED GRIEVANCE COMPLAINT

Grievant: J. ZIELINSKI 16-A-3601 D-41-3 July 20, 2022

Problem: This facility is refusing to consider or respond to my requests for an exemption from the "pilot" ban on packages from "family and friends" to accommodate my religious dietary requirements and moral obligations. The request has been made pursuant to the Religious Land Use and Institutionalized Persons Act, the First Amendment's Free Exercise Clause, NY Correction Law § 610, and DOCCS Directive #4202. I filed a grievance (A-1065-22) on May 25, 2022 but nearly two months later it's received no response, despite written status update requests and an appeal of the constructive denial pursuant to 7 NYCRR § 701.6(g)(2). I also wrote to the facility Chaplain directly on July 5, 2022 and received no response. The IGP's and Chaplain Office's staff's continuing refusal to accommodate my religious exercise is violating my state and federal constitutional and statutory rights, and also DOCCS Directives and policies.

Remedy Requested: For my requests for a religious accommodation to be granted immediately.



J. ZIELINSKI

cc file

To: Sister Roz, Attica CF Chaplain
Fr: J. ZIELINSKI 16-A-3601 D-41-3
Re: Religious accommodation request
Date: July 21, 2022

Sister Roz:

Thank you for meeting with me this afternoon about my religious accommodation request. This letter is in followup to your query for a more detailed explanation of how and why access to fresh foods, and acquiring them from morally good sources, is an essential and central part of my religious beliefs.

Initially, I'm in the process of seeking out some documentary proof that I am not alone amongst fellow Atheists in my beliefs. As that information comes in, I will pass it along to you.

In the interim, I believe it will be helpful to explain the nature of my beliefs.

DOCCS has me listed as Atheist. This term has a lot of misconceptions associated with it. While this is obviously a condensation, Atheism is not a "negative" belief system founded on mere "denial" of "the existence of God" (or gods) as many people assume. Rather it has core positive beliefs of its own, and in practice can perhaps be summarized as a religious level of devotion and commitment to using only scientific methods and rational inquiry to ask and answer all questions, including conventional religious ones — including but not limited to metaphysics, epistemology, morality, and ethics. For me, this is held with the same level of confidence as conventional religious adherents have for "belief in God," and serves as the practical equivalent.

The basic founding premise is that although an infinite variety of aspects of reality can potentially be perceived (if we ask the right questions), existence itself (and our consciousness of it) must simply be recognized as a "metaphysical given" not amenable to explanation. It's implied in everything. Although not dispositive, my belief in this draws support, perhaps ironically, from the implicit suggestion in the old world religions that even their gods have this limitation: When the Old Testament God is asked where he came from, he responds simply, "I am that I am." He can no more explain his own existence than we can explain ours, and if "God" had a god, that god would have that same answer. No matter how far we ascend in our understanding, even if we posit a superbeing directly aware of the state of every particle in the universe, it would still not be able to explain itself — it, like us, cannot get beyond that barrier, and at some point we have to simply accept that the question isn't unanswerable, it's nonsense. Asking why there's something rather than nothing is incoherent — no matter how broad our conception of "existence" might be, the instant we try to ascribe it to some external cause, our conception expands to include the cause and we're right back where we started: Trying to explain the existence of the cause of the cause of the cause, ad infinitum.

That said, existence, though itself inexplicable, is knowable. Declaring the "ultimate why" incoherent is not "giving up" on an inquiry that conventional religions claim to have solved; it transcends the question entirely, which lets us see there is literally no conceivable limit to understanding, and thus to joy -- whether from discovery, love, or any of the other virtues that conventional religions proclaim as desirable. What William James said in The Varieties of Religious Experience (which as an aside is an absolutely extraordinary book you should read if you never have) is true: "There never can be a state of facts to which new meaning cannot truthfully be added, provided the mind ascend to a more enveloping point of view." And that, I believe, is what we're supposed to do: Be curious. Ask questions. Learn more. Seek out gaps in our understanding and ask new questions, while being happy to identify and dispel misunderstandings. If we make a mistake in belief or behavior (which is basically a belief carried into action), identify why and adapt so we don't make that mistake again.

So although Atheism doesn't have "commands" in a conventional prescribed way, the nature of reality itself dictates that the consequences of ignoring its nature is, at best, ignorance or misunderstanding, and at worst, death. The "first commandment" of Atheism can thus be thought of as something like "Thou shalt think."

My religious accommodation request thus makes two basic claims for an exemption from the package restrictions, particularly its source limitation.

First, clear thinking on religiously-significant subjects is a central "religious exercise" in Atheism, so it's essential to have a clear and healthy mind, which requires regular -- ideally daily -- consumption of fresh and healthy foods. Further, fresh food has an immanent, intangible quality that other food lacks -- it was recently imbued with, and in some ways still has, the reward-state of proper existence: life. The packages policy severely curtails access to those foods. That adversely affects my clarity of mind, denies me the ability to share in the universal cycle of one life becoming the next and to directly experience the value of life over death, and thereby inhibits religious activities.

Second, it's immoral to support enterprises which are themselves immorally operated. This is a paramount consideration in purchases for me, and enterprises which exist primarily to exploit and profiteer on mass incarceration are, in my beliefs, deeply immoral. Depriving me of access to food because I'm unwilling to violate my beliefs by supporting enterprises I believe are evil -- the prison-focused "vendors" -- violates my right to practice my religion. Moreover, they have no fresh foods, which I require. (For completeness, in the Atheist view, purposeless suffering is undesirable, and hence causing it is evil, not just because of its inherently unpleasant quality, but because it distracts from joy -- you can't seek out and contemplate reverently the splendor of existence if your mind is focused on immediate injury and avoiding bodily decay and destruction. Health and happiness are of course good for the opposite reason: They facilitate joy, the natural state of existing in harmony with existence itself.)

DOCCS's policy, even if it can be argued to have some marginal security benefit, is beyond extreme. In general, it is wholly unnecessary and unfair: It penalizes tens of thousands of incarcerated people who have fully complied


with the standard policy's minutiae and arcane rules, based at best on a statistically-insignificant number of attempts by incorrigibles to abuse it. With respect to me in particular, it has no justification whatsoever -- I have no history of either drugs or weapons (the "justifications" DOCCS gives for banning packages), and a long history of compliance with standard package policy, which is all I am seeking to be able to continue. At least with me, DOCCS cannot show that banning me from receiving packages in the same way I've done for years without incident is the "least restrictive means" of serving any "compelling governmental interest" as the RLUIPA requires.

If you have any further questions, please of course don't hesitate to ask. Thanks in advance!



J. ZIELINSKI

cc: file

 Corrections and Community Supervision INCARCERATED GRIEVANCE PROGRAM SUPERINTENDENT RESPONSE	GRIEVANCE NO. A-1065-22		DATE FILED 05/25/22
	FACILITY Attica CF		POLICY DESIGNATION INSTITUTIONAL
	TITLE OF GRIEVANCE PACKAGE POLICY VIOLATES RELIGION		CASE CODE 31
	SUPERINTENDENT'S SIGNATURE <i>AKUP 8/5/22 PMS</i>		DATE <i>7/22/2022</i>
GRIEVANT ZIELINSKI, J		DIN 16A3601	HOUSING UNIT D-41-03

The grievant asserts that the recent changes in package policy violate the grievant's religious beliefs. The current package policy allows for the grievant to purchase allowable fresh food items directly through vendors while also allowing friends and family to purchase through vendors. The current package policy does not deny the grievant the ability to purchase fresh foods. As of the memo issued on 04/25/22 the grievant can receive three (3) food packages a month with a total weight of 40 pounds. Coordinating Chaplain R...investigated and interviewed the grievant. Chaplain R...stated that the grievant is registered as Atheist as the grievant's religion and that by not eating healthy foods the grievant's mind is not allowed to think correctly. Chaplain R...advised the grievant to forward documentation relating to the grievant's religion that dictates the religion's dietary restrictions. Based on the investigation the grievance appeal is denied.

Received 7/28/2022
[Signature]

APPEAL STATEMENT

If you wish to appeal the above decision of the Superintendent, please sign below and return this copy to the IGRC at the facility where the grievance was filed. You have seven (7) calendar days from receipt of this notice to file your appeal.* Please provide a reason why you are appealing this decision to CORC.

This response does not address the real issues in a meaningful way but merely parrots "official policy" that has no basis in reality. Moreover, by its own text the decision was made while on investigation by Chaplain R...is still open.

[Signature]
GRIEVANT'S SIGNATURE

GRIEVANCE CLERK'S SIGNATURE

July 28, 2022
DATE

DATE

*An exception to the time limit may be requested under Directive #4040, section 701.6 (g)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JEREMY ZIELINSKI, Plaintiff,

SUMMONS

v.

Case No. _____

ANTHONY ANNUCCI, Defendant.

To: Anthony Annucci
Acting Commissioner
New York State Department of Corrections
and Community Supervision
1220 Washington Avenue, Building #2
Albany, NY 12226-2050

You are hereby summoned and required to serve on the plaintiff herein,
whose address is:

JEREMY ZIELINSKI, #16A3601
Great Meadow Correctional Facility
P.O. Box 51
Comstock, NY 12821-0051

an answer to the complaint that is herewith served upon you, within ~~20~~ days
after service of this summons upon you, exclusive of the day of service. If you
fail to do so, judgment by default may be taken against you for the relief
demanded in the complaint.

Date: _____

Clerk of the Court

U.S. Department of Justice
 United States Marshals Service

PROCESS RECEIPT AND RETURN
 See "Instructions for Service of Process by U.S. Marshal"

PLAINTIFF JEREMY ZIELINSKI	COURT CASE NUMBER
DEFENDANT ANTHONY ANNUCCI	TYPE OF PROCESS Summons and Complaint
NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN ANTHONY ANNUCCI, "Acting Commissioner" of NYSDOCCS	
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) NYSDOCCS, 1220 Washington Ave., Bldg. 2, Albany, NY 12226-2050	
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW	
JEREMY ZIELINSKI, #16A3601 Great Meadow Correctional Facility P.O. Box 51 Comstock, NY 12821-0051	Number of process to be served with this Form 285 1
	Number of parties to be served in this case 1
	Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

Signature of Attorney other Originator requesting service on behalf of: 	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER n/a	DATE 11/28/2022
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. <i>(Sign only for USM 285 if more than one USM 285 is submitted)</i>	Total Process _____	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk _____	Date _____
I hereby certify and return that I <input type="checkbox"/> have personally served, <input type="checkbox"/> have legal evidence of service, <input type="checkbox"/> have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.					
<input type="checkbox"/> I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (<i>See remarks below</i>)					
Name and title of individual served (<i>if not shown above</i>) _____				<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode	
Address (<i>complete only different than shown above</i>) _____				Date _____	Time <input type="checkbox"/> am <input type="checkbox"/> pm
				Signature of U.S. Marshal or Deputy _____	
Service Fee	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*) \$0.00

REMARKS:

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JEREMY ZIELINSKI

(b) County of Residence of First Listed Plaintiff Washington, NY
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
JEREMY ZIELINSKI, #16A3601
Great Meadow CF, P.O. Box 51
Comstock, NY 12821-0051

DEFENDANTS

ANTHONY ANNUCCI

County of Residence of First Listed Defendant Albany, NY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

NYS Attorney General
Dept. of Law, The Capitol
Albany, NY 12224-0341

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC § 2000cc-2(a)Brief description of cause: Denial of access to food needed for religious diet

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

n/a

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/28/2022

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

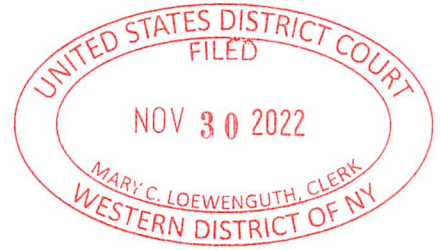
AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JEREMY ZIELINSKI, #16A3601
Great Meadow Correctional Facility
P.O. Box 51
Comstock, NY 12821-0051



Clerk of the Court
United States District Court
Western District of New York
2 Niagara Square
Buffalo, NY 14202

Re: RLUIPA action for filing

November 28, 2022

Dear Clerk:

Enclosed for filing are: (1) JS-44 civil cover sheet; (2) IFP application with prisoner authorization; (3) Verified Complaint; (4) One summons for the named defendant; and (5) USM-285 form for the defendant. A copy of the first page of the Verified Complaint is also enclosed to be date-stamped and returned to me indicating the assigned case number and district and magistrate judges.

Thank you,

JEREMY ZIELINSKI
Plaintiff, Pro Se

Enclosures

cc: file

JEREMY ZIELINSKI

DIN 16A3601

Great Meadow Corr. Fac.

P.O. Box 51

Comstock, NY 12821-0051

11/30/22 11:30 AM
U.S. DISTRICT COURT
WESTERN DISTRICT
OF NEW YORK
CLERK OF COURT
JEREMY ZIELINSKI
P.O. BOX 51
COMSTOCK, NY 12821-0051
11/30/22 11:30 AM

7
Clerk of the
U.S. District
Western Dist
2 Niagara S
Buffalo, NY

"Legal Mail"

Great Meadow



Correctional Facility

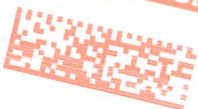
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11/28/2022

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